

§ 349.14 Supervision.

(a) *Supervision by the FDIC-supervised insured depository institution.* An FDIC-supervised insured depository institution engaging in retail forex transactions shall diligently supervise the handling by its officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, or advised by at the FDIC-supervised insured depository institution and all activities of its officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to its retail forex business.

(b) *Supervision by officers, employees, or agents.* An officer, employee, or agent of an FDIC-supervised insured depository institution must diligently supervise his or her subordinates' handling of all retail forex accounts at the FDIC-supervised insured depository institution and all the subordinates' activities relating to the FDIC-supervised insured depository institution's retail forex business.

§ 349.15 Notice of transfers.

(a) *Prior notice generally required.* Except as provided in paragraph (b) of this section, an FDIC-supervised insured depository institution must provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. The notice must include a statement that the retail forex customer is not required to accept the proposed assignment or transfer and may direct the FDIC-supervised insured depository institution to liquidate the positions of the retail forex customer or transfer the account to a retail forex counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section shall not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee FDIC-supervised insured depository institution.* An FDIC-supervised insured depository institution to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part and receive the required signed acknowledgments within sixty days of such assignments or transfers. This requirement shall not apply if the FDIC-supervised insured depository institution has clear written evidence that the retail forex customer has received and acknowledged receipt of the required disclosure statements.

§ 349.16 Customer dispute resolution.

(a) *Voluntary submission of claims to dispute or settlement procedures.* No FDIC-supervised insured depository institution may enter into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit such claim or grievance to any settlement procedure.

(b) *Election of forum.* (1) Within ten business days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, the FDIC-supervised insured depository institution must provide the customer with a list of persons qualified in dispute resolution.

(2) The customer shall, within 45 days after receipt of such list, notify the FDIC-supervised insured depository institution of the person selected. The customer's failure to provide such notice shall give the FDIC-supervised insured depository institution the right to select a person from the list.

(c) *Enforceability.* A dispute settlement procedure may require parties using such procedure to agree, under applicable state law, submission agreement or otherwise, to be bound by an award rendered in the procedure, provided that the agreement to submit the claim or grievance to the voluntary procedure under paragraph (a) of this section or that agreement to submit the claim or grievance was made after the claim or grievance arose. Any

award so rendered shall be enforceable in accordance with applicable law.

(d) *Time limits for submission of claims.* The dispute settlement procedure used by the parties shall not include any unreasonably short limitation period foreclosing submission of a customer's claims or grievances or counterclaims.

(e) *Counterclaims.* A procedure for the settlement of a retail forex customer's claims or grievances against an FDIC-supervised insured depository institution or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought. Such a counterclaim may be permitted where it arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

PART 350—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY FDIC-INSURED STATE NON-MEMBER BANKS

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AUTHORITY: 12 U.S.C. 1817(a)(1), 1819 “Seventh” and “Tenth”.

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§ 350.1 Scope.

This part applies to FDIC-insured state-chartered banks that are not members of the Federal Reserve System, and to FDIC-Insured state-licensed branches of foreign banks.

§ 350.2 Definitions.

(a) *Bank.* For purposes of this part, the term *bank* means an FDIC-insured state-chartered organization that is not a member of the Federal Reserve System, and an FDIC-insured state-licensed branch of a foreign bank.

(b) *Call Report.* For purposes of this part, the term *Call Report* means the report filed by a bank pursuant to 12 U.S.C. 1817(a)(1).

§ 350.3 Requirement for annual disclosure statement.

(a) *Contents.* Each bank shall prepare as of December 31 and make available on request an annual disclosure statement. The statement shall contain information required by § 350.4(a) and (b) and may include other information that bank management believes appropriate, as provided in § 350.4(c).

(b) *Availability.* A bank shall make its annual disclosure statement available to the public beginning not later than the following March 31 or, if the bank mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall make a disclosure statement available continuously until the disclosure statement for the succeeding year becomes available.

[62 FR 10200, Mar. 6, 1997]

§ 350.4 Contents of annual disclosure statement.

(a) *Financial reports.* The annual disclosure statement for any year shall reflect a fair presentation of the bank's financial condition at the end of that year and the preceding year and, except for state-licensed branches of foreign banks, the results of operations for each such year. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Report, or applicable portions thereof, for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules:

(1) For insured state-chartered organizations that are not members of the Federal Reserve System:

(i) Schedule RC (Balance Sheet);